

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

BRENDA BRILEY,)	
)	
Plaintiff,)	
)	
vs.)	
)	8:09-cv-00394-LSC-FG3
WESTMONT DEVELOPMENT, INC.)	
d/b/a WESTMONT HOSPITALITY)	ORDER
GROUP,)	
)	
Defendant.)	

On November 17, 2009, the plaintiff filed a second amended complaint without obtaining leave of the court as required by Rule 15(a) of the Federal Rules of Civil Procedure. Wishing to avoid future problems concerning the validity of the pleadings, the court ordered the purported second amended complaint stricken "without prejudice to plaintiff filing a motion for leave to file a second amended complaint pursuant to Fed. R. Civ. P. 15(a) and NECivR 15.1."

In response to the court's order, the plaintiff filed a motion for reconsideration¹ (Filing 7), which is denied. Filing No. 5 remains stricken.

Upon review of the proposed pleading attached to Filing No. 7, the court finds that the plaintiff has now complied with Fed. R. Civ. P. 15(a) and NECivR 15.1. Plaintiff's

¹Although plaintiff's co-counsel now insists that the pleading should not have been stricken because it was not really a "second" amended complaint, it was docketed by plaintiff's other attorney as an "AMENDED COMPLAINT (Second) against Defendant Westmont Development, Inc., Westward Hospitality Management Inc." The court once again finds that the plaintiff did, in fact, file a second amended complaint without first obtaining leave of the court to do so.

alternate request for relief, i.e., that she be allowed to file a Second Amended Complaint (Filing 7) is granted.

IT IS ORDERED that plaintiff's motion (Filing 7) is granted in part, and denied in part, as follows:

1. The request for reconsideration is denied. Filing No. 5 remains stricken.
2. Plaintiff's motion for leave to file a Second Amended Complaint is granted. The plaintiff shall file the Second Amended Complaint on or before December 10, 2009. The plaintiff may serve the Second Amended Complaint on the defendant within the time allowed by Fed. R. Civ. P. 4(m).

DATED December 1, 2009.

BY THE COURT:

**s/ F.A. Gossett
United States Magistrate Judge**